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Terry Goddard Announces \$9.3 Million Settlement with Pharmacy Benefits Company

(Phoenix, Ariz. – May 27, 2008) Attorney General Terry Goddard today announced a \$9.3 million settlement with Express Scripts Inc., one of the nation's largest pharmacy benefits management (PBM) companies. Goddard joined 29 other state Attorneys General in this settlement.

According to court documents, Express Scripts, based in St. Louis, Mo., engaged in deceptive business practices by possibly overstating the cost benefits of switching to certain medicines. Moreover, Express Scripts did not clearly disclose to its clients that rebates accrued from the drug switching process would be earned by Express Scripts.

The settlement, in the form of an Assurance of Discontinuance, requires Express Scripts to:

- Inform patients and prescribers what effect a drug switch will have on a patient's co-payment.
- Obtain express, verifiable authorization from the prescriber for all drug switches.
- Inform prescribers of Express Scripts' financial incentives for certain drug switches.
- Inform prescribers of material differences in side effects or efficacy between prescribed drugs and proposed drugs.
- Reimburse patients for out-of-pocket expenses for drug switch-related health care costs and notify patients and prescribers that such reimbursement is available.
- Monitor the effects of drug switches on the health of patients.
- Refrain from making any claims of savings for a drug switch to patients or prescribers unless Express Scripts can substantiate the claim.

Arizona's share of the settlement is \$250,735. Of that amount, \$185,735 must be used to benefit low-income, disabled or elderly consumers of prescription medications, to promote lower drug costs for state residents, to educate consumers about cost differences among medications or for similar purposes.

PBMs enter into contracts with employer and governmental health plans to process prescription drug claims for drugs provided to patients enrolled in those health plans; negotiate with drug companies to obtain discounts; negotiate discounts with participating retail pharmacies to

provide dispensing services, and dispense drugs to patients through PBM-owned mail order pharmacies.

"This is the third historic agreement the States have signed with a nationwide pharmacy benefit manager. We settled with Medco in 2004, and earlier this year with Caremark, to ensure that the decision about prescription drug usage is in the right hands – the physician's and the patient's – instead of a drug management company," Goddard said. "Patients will know if they save money if their drugs are switched, and more importantly, patients have the right to decline the drug switch."

The settlement also generally prohibits Express Scripts from soliciting drug switches when:

- The net drug cost of the proposed drug exceeds the net drug cost of the originally prescribed drug;
- The originally prescribed drug has a generic equivalent and the proposed drug does not;
- The originally prescribed drug's patent is expected to expire within six months; or
- The patient was switched from a similar drug within the last two years.

Today's agreement is the third settlement with pharmaceutical benefits managers. In 2004, a group of 20 states settled with Medco Health Solutions, Inc., the world's largest pharmaceutical benefits manager and earlier this year a group of 29 states settled with Caremark Rx, LLC.

The states participating in today's settlement Express Scripts are: Arizona, Arkansas, California, Connecticut, Delaware, District of Columbia, Florida, Illinois, Iowa, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nevada, New Mexico, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, and Washington.

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